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ABSTRACT

Discussed are the child abuse reporting laws in Canada and the operation of child abuse registers. Comments on the recommendations of the House of Commons are quoted in the following areas of need: preventive services, research, statistics and information, amendment of the Canada Evidence Act and the Criminal Code, and public and professional education. A task force of voluntary organizations concerned with child abuse and neglect, as proposed by the author, is described. The bulk of the document consists of the following appendixes: a statement of the laws concerning child abuse and neglect; statistical documentation from child abuse registers; and legislative provisions and documentation relating to child abuse in the provinces, presented by province. (IM)

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The Canadian Council on Social Development

CHILD ABUSE - A NATIONAL PERSPECTIVE

Paper and documentation prepared for
Workshop at the Child Welfare League
of America Northwest Region Conference
June 5-8, 1977, Calgary, Alberta

by

H. Philip Hepworth

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CHILD ABUSE - A NATIONAL PERSPECTIVE

Introduction

Listed on our agenda today are the topics:

(1) reporting laws in Canada;

(2) how child abuse registers are working;

(3) innovative ways of treating and combating child abuse.

When I was invited to attend this workshop I was asked to bring up-to-date my earlier review of services for abused children, which was published in the spring of 1975. I have been able to accomplish this task in part. I am hopeful that participants in the workshop can provide some of the detail about local initiatives and services which I have not been able to collect.

I would like to talk therefore about reporting laws and child abuse registers primarily from a child welfare perspective and to support some of what I say with statistics that are available on the reporting of child abuse and on the operation of the child welfare services.

I would suggest that the workshop should then move on to a consideration of the recommendation of the House of Commons Standing Committee Report on Child Abuse and Neglect, and a discussion of innovative ways of treating and combating child abuse.

Reporting Laws and Child Abuse Registers

The first and most obvious conclusion that can be made about reporting laws and child abuse registers is that they raise as many questions as they answer. It is not apparent when a reporting law is truly mandatory. The Protection of Children Act in British Columbia was amended in 1968 and again in 1974 to make reporting mandatory. Sometimes it seems that "mandatory" means when a specific penalty is given in the legislation for failure to report.

The second observation I would make is that it is not always clear who is reporting to who, and what is reported, and what therefore is ultimately

recorded in provincial child abuse registers. In Ontario,for example, it is mandatory for any individual to report a case of suspected child abuse to a Children's Aid Society or a Crown Attorney, but at present there is no legislative requirement for agencies to report cases to the central registry in the province. What is reported to the central register in Manitoba comes from the children's aid societies and regional offices of the provincial department, but at least in published documents there is no indication of the source of reports to the agencies and regional offices.

In those provinces which provide some information on the source of the original reports - these are Alberta, Ontario and Nova Scotia - there is a wide variety of sources identified, and again it is not clear whether these are truly primary reporting sources or intermediaries; for example other agencies or another children's aid society are identified, or a social worker or the staff of a children's aid society. There is therefore likely to be much variability in the type and quality of reports made within a province, and in the comparability of data between different parts of a province and between provinces.

Similarly the types of injury identified vary, and indeed whether any injury is involved - some provinces identify emotional and physical neglect - in others, for example, Quebec, physical abuse is specified in the legislation - depends on the legislation and administrative practices.

All provinces with reporting arrangements and registers in operation report very low rates of malicious reporting by the general public.

Some provinces make a distinction between the number of reports and the number of cases of probable child abuse. In Quebec for the first year of operation, the Youth Protection Committee received 2,241 reports of "situations"; of these 1,123 were substantiated - these involved 2,464 children who had been victims of physical ill-treatment. In the 1,118 "situations" not substantiated, there were 562 children who, although they had not been physically maltreated, were in urgent need of help.[1]

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1 Jacques Tellier, La protection des enfants soumis a des mauvais traitements - une nouvelle législation au Québec, Xe Congrès - I.D.E.F. - Paris, décembre 1976.

Similarly British Columbia has made a distinction between the number of reports and the number of probable cases of abuse in recent years, but has then gone on to include cases of emotional neglect.

I have attempted to extract as much of the relevant data on reporting laws and practices and on the operation of the child abuse registers as is readily available and include this information as an appendix to my paper, so that you may come to your own conclusions about the current situation.

I would like to recapitulate at this point. In all ten provinces attempts are being made to identify the number of cases of child abuse. Legislative backing for the recording of reports of child abuse exists in seven provinces; the exceptions are Prince Edward Island, New Brunswick and Saskatchewan, but in these three provinces steps are being taken to monitor cases of child abuse on a systematic basis. Some provinces have made several attempts to improve the reporting requirements. The number of cases of child abuse reported is partly a function of the definitions placed on child abuse within a province, the interpretation of these definitions, and of the administrative arrangements made to record and to substantiate the reports once made.

TABLE 1: The Development of Reporting Requirements for Child Abuse by Province or Territory, Year of Legislation, and Year of Implementation

	Year of Relevant or Amending Legislation	Year of Implementation
Newfoundland	1969	1969
Prince Edward Island		
Nova Scotia	1968	1968
New Brunswick		
Quebec	1974	1975
Ontario	1965	1966
Manitoba	1970	1971
Saskatchewan	1973	
Alberta	1966/1970/1973	1966/1974
British Columbia	1967	1968
Yukon	1970	

I cannot stress too strongly that the figures that we have for child abuse in Canada are not reliable statistics. I do not mean by this any blanket criticism of the child abuse registers, and of how they are being administered. We are involved with a complex and baffling social phenomenon in child abuse, and in the extreme case of the battered child, it is no accident at all that the term "syndrome" - a combination of several symptoms in disease - is used. It will also be obvious by now that the reporting process is itself somewhat complex. Having made these reservations I am myself optimistic that information on some of the bureaucratic procedures connected with the recording and handling of child abuse could be collected and recorded more systematically, and that the different provincial registers could be aligned so that they recorded information in more comparable ways.

It might be argued that greater systematization of the reporting procedures would serve no useful purpose and would in any case not describe either the phenomenon or the prevalence of child abuse very accurately. I certainly agree that it would provide no simple answers. I think however that it might serve the beneficial effect of setting child abuse within the context of child welfare statistics generally, which in my view need to be compiled on a more systematic and comparable basis within and between each province.

As I indicated earlier in the case of Quebec and British Columbia there is clearly a continuum from the extreme cases of battering and the less extreme cases of physical and emotional neglect. But it is not at all clear that the majority of children coming into care and staying in care each year properly belong in the physically and emotionally neglected category. I think that one can at least hypothesize that many children have to come into care because of economic or housing conditions, in which parents are not able to care for their children properly; improvement of these economic and housing conditions might alleviate many of the attendant emotional problems which beset poor families.

Because I think it will be of interest I have included in this paper figures for (1) the number of children in the care of the provincial governments at the end of each fiscal or accounting year since 1970/71, (2) the

TABLE 2. Children in Care of the Provinces

Year	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.(a)	Man.(f)	Sask.	Alta.	B.C.	Total	Total Recorded in Care Under C.A.P.
1970/71	1,839	425	3,338	3,310	40,180	17,807	3,636	3,273	8,360	9,975	92,143	96,164
1971/72	1,768	416	3,144	3,004	40,354	16,319	3,549	3,231	8,045	10,274	90,104	92,362
1972/73	1,735	342	2,928	2,824	36,392	15,119	3,579	3,117	7,054	9,913	84,003	88,485
1973/74	1,479	333	2,739	2,798	33,911	14,269	3,690	2,975	7,686	9,584	79,464	80,773(b)
1974/75	1,410	307	2,511	2,855	32,343	13,718	3,436	2,733	10,798(c)	9,883	79,995	85,337
1975/76							4,282	2,610				66,000(d)
1976/77								2,715(e)				

SOURCE: Provincial Annual Reports and published statistics.
* Canada Assistance Plan, Annual Reports.

(a) Children in care on December 31, 1970,1971,1972,1973,1974, etc.; does not include juvenile delinquents
(b) Includes 478 in Yukon.
(c) Includes probationers and handicapped children.
(d) Provisional.
(e) Includes 159 children in care of Department of Northern Saskatchewan on March 31, 1977.
(f) Wards in care on December 31, 1970,1971,1972,1973 and 1974; wards and non-wards on December 31, 1975.

TABLE 3a Registered Indian Children in Care

	Canada		Maritime		Quebec		Ontario		Manitoba		Saskatchewan		Alberta		BC and Yukon			
	Agencies	I.A.B.[a]	Agencies	I.A.B.	Agencies	I.A.B.	Agencies	I.A.B.	Agencies	I.A.B.	Agencies	I.A.B.	Agencies	I.A.B.	Agencies	I.A.B		
1964-65	1,798	973	58	304	78	73	698	51	87	156	95	292	145	30	637	67		
1965-66	2,045	1,154	59	302	78	63	707	65	135	189	111	416	169	64	786	55		
1966-67	2,385	1,252	92	279	69	83	756	67	154	179	130	506	159	97	1,025	41		
1967-68	2,835	1,476	167	264	123	54	799	74	222	211	146	577	197	271	1,081	25		
1968-69	3,110	1,481	213	231	206	90	700	20	239	198	143	629	320	290	1,289	23		
1969-70	3,461	1,601	240	200	349	19	691	11	360	210	145	728	285	409	1,391	24		
1970-71	3,728	1,667	240	178	492	20	653	-	436	194	167	775	408	465	1,332	35	Yukon	
1971-72	3,985	1,546	188	158	596	12	682	-	513	205	191	759	502	394	1,217	18	96	-
1972-73	3,351	1,116	211	138	385	6	560	-	513	205	161	763	502	394	1,259	16	86	37
1973-74	3,276	1,146	211	138	385	6	560	-	513	205	161	763	502	394	1,259	16	86	37

SOURCE: Information supplied by Department of Indian and Northern Affairs.

(a) Indian Affairs Branch

TABLE 3b. Estimates by Provincial Officials of Percentage of Children in Care who are Native, and Calculation of the Number of Native Children in Care in 1974/75

	60%	50%	40%	40%	90%
	2,500	1,350	4,400	4,000	450?

number of registered Indian children in care in the period 1964-65 to 1973-74, and the estimated number of native children in the care of some provincial governments in 1974/75. (Tables 1 + 2a + 2b)

Some Provisional Conclusions on Reporting Laws and the Operation of Child Abuse Registers

Although one provincial child abuse register has been in operation for ten years, and several others have been in existence for five or more years I believe that generally child abuse registers are still in process of being implemented and used properly. I believe we can say that neither mandatory reporting laws nor child abuse registers are a panacea; at best they are a tool which needs to be used properly and wisely. They are not a substitute for good social services, and by these I mean not only the child welfare services, but also good income support, health, housing and education services.

Some provinces are working on more effective liaison arrangements between different services, for example, the police and the child welfare services.[2] Clearly these arrangements need to be systematically created between all the "caring" systems, so that possible cases of child abuse are not lost to sight, when one professional person or another has perceived symptoms of abuse, neglect or emotional disturbance in a child, or when such symptoms have been brought to the notice of a professional participant in any of the "caring"systems or public services.

Comments on the Recommendations of the House of Commons Standing Committee on Health, Welfare and Social Affairs.

The recommendations of the Committee were prepared as follows:

> The following recommendations and conclusions are based on the findings and deliberations of your Committee, from the point of view of the needs of the child.[3]

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2 Manitoba has issued guidelines for effective co-operation between the police and the social services. On this point reference may be made to a British official circular - Department of Health and Social Security/Home office non-accidental injury to children: The Police and Case Conferences LA SS L(76)26 HC(76)50, Home Office Circular 179/76.

3 Report to the House of Commons Standing Committee on Health, Welfare and Social Affairs, Child Abuse and Neglect (Ottawa, 1976), p.21.

Preventive Services

1. That there be a commitment on the part of governments at all levels to the concept of assisting families in the child-rearing process and thereby strengthening family life.

   Comment - A great deal depends on the interpretation given to the term "commitment". Governments often make "statements of intent". What is needed is specific proposals, programs and implementation machinery.

2. That governments at all levels encourage and assist the development of community resources for families with children.

   Comment - It could be argued that governments already do what is proposed. It is clearly not enough.

3. That every child be entitled to adequate protective services in his own home and that these services include support services to parents as well as health and other community services to the child in his own right.

   Comment - Agreed.

   A number of groups have drawn up charters of children's rights. It is not clear to what extent these could ever be legally enforceable or to what extent they would remain at the level of exhortation.

4. That communities consider a Block Parents program such as those which have been operating in several communities for a number of years, in which block parents offer their homes to children needing assistance in emergencies (for example, when they are lost, have been molested or followed by strangers).

   Comment - I have some reservations about the Block Parents program. I do not think enough care is taken in the selection of Block Parents; there is little supervision; the commitment by Block Parents is vague e.g. signs are often left in windows when people are out.

   The police in the Toronto area have recently voiced some reservations about the fairly superficial vetting of people applying to be Block Parents. Perhaps what is needed is a greater degree of organization of Block Parent groups at the local level, so that a degree of ongoing monitoring of members might occur.

5. That community health and social service centres be established to provide a range of co-ordinated services appropriate to community needs.

   Comment - This again relates to the level of government commitment. There have been problems with the Quebec, Manitoba and the former B.C. systems of community service centres around the question of citizen participation, legitimacy, democratic mandate and so on.

   It is also important to ensure that community health and social service centres are part of a wider system of caring services, and that proper organizational linkages and relationships are made between the services at every level.

6. That such centres consider the feasibility of providing home visits to every new parent with such subsequent visits as are necessary with a view to giving support and assistance to the parent, to making any referral which the parent may request or which may seem desirable, and to outlining the services available to families.

   Comment - It is not for centres to consider the feasibility of providing home visits etc. It is for governments to make such visits and support services part of their regular programs, i.e. the programs of both the governments and of the centres.

7. That the federal government consider the advisability of ensuring cost-sharing with the provinces through the Canada Assistance Plan, the proposed new Social Services Act or otherwise in:
   (a) respite, remedial and other support services to families and children designed to assist parents to care for their children more adequately;

   (b) programs designed to involve parents and prospective parents in discussions, meetings, courses on child rearing and training; and

   (c) inter-professional and inter-agency seminars and staff training projects on child abuse.

   Comment - The federal government may fairly say that it has considered the feasibility of cost-sharing the activities proposed. Implementation at the local level is what counts.

   It would however be possible for the federal government to support specific programs or projects concerned with child abuse on a more generous basis than the usual 50:50 cost-sharing, or by grants for the full cost; the latter is already possible under the Welfare Grants program of Health and Welfare Canada.

8. That the Department of National Health and Welfare consider the advisability of promoting the concept of preventive services in both the health and welfare fields as they apply to children and of extending its consultative program for this purpose. In particular, the Department should encourage the development of preventive health and social services through integrated community health and social service centres.

   Comment - The federal government is already engaging in these activities. Whether the federal government should do more is open to question. Perhaps it should seek to secure for itself a bigger mandate to work in this area.

Research

9. That the Department of National Health and Welfare consider the advisability of ensuring that funds are available for suitable research and demonstration projects in the health and welfare aspects of child abuse and neglect, and that it consider the advisability of encouraging research and demonstration in these areas.

   In particular, that the government consider the advisability of encouraging research

(a) in all aspects of child abuse and neglect, including the interaction of the personality of the parents, the characteristics of the child, and environmental stresses; in the area of early identification of high-risk children; and on the positive effect of ethno-cultural differences and patterns on the etiology of child abuse and neglect; and

(b) in the periodic follow-up, evaluation and cost-effectiveness of the program of preventive services.

Comment - In general I support this proposal. However I have some concern about the diversion of effort into long-term research; enough is known to be able to provide better services now. Equally demonstration projects should not be supported at the expense of ongoing improved services.

Statistics and Information

10. That the Department of National Health and Welfare consider the advisability of:

(a) encouraging and giving assistance to the provinces in the establishment of a common data base on all substantiated cases of child abuse for the purpose of facilitating exchange of information between provinces when persons active with the registry move from one province to another;

(b) promoting information exchange by convening meetings on the subject of child abuse registries with appropriate provincial officials; and

(c) providing a resource service to the provinces on developments in legislation, programs and services in child and family services, including services for the prevention of abuse and neglect and for abused and neglected children.

Comment - In general I agree with this proposal. I do think it should be possible to trace abused children and their families when they cross provincial or country boundaries.

The Canada Evidence Act and
The Criminal Code

11. (1) That it would be desirable to amend the Canada Evidence Act to permit a spouse to give evidence in criminal cases in accordance with the recent recommendations of the Law Reform Commission. Such an amendment would affect criminal cases involving child abuse.

(2) That mandatory reporting requirements exist in provincial and territorial legislation, and that the inclusion of such a provision in the Criminal Code is not therefore recommended.

Comment - I am not sure of the full legal implications of this proposal.

See attached memorandum of Law from P. Rosen, Program Director, Law and Social Development, Canadian Council on Social Development (Appendix A).

12. That central registries be established at provincial levels. Under these circumstances, there is no need for a federal registry.

Comment - I think there are big questions about the use made or to be made of central registries; these questions have been discussed above.

Public and Professional Education

13. That the government consider the advisability of extending public education through media such as the CBC - Radio Canada, National Film Board and such programs as Challenge for Change by including programs on child rearing, child care, family living and child abuse.

Comment - Agreed. I have some reservations about proposals for films directed specifically at the abused child. I think such films if made should only be shown with proper supervision and interpretation, in schools for example.

14. That appropriate professional schools broaden their curricula to include material on the etiology of child abuse and neglect.

Comment - Agreed, however this recommendation ignores the fact that basic courses on human growth and development are often inadequate or not provided.

15. That training in child care should begin in primary schools with further courses in secondary and post secondary schools.

Comment - Agreed.

This recommendation is linked with recommendation 13.

Task Force of National Voluntary Organizations Concerned with Child Abuse and Neglect

Following the publication of the Standing Committee's Report, initial discussions by representatives of a number of national voluntary organizations concerned with the welfare of children have suggested the need for ongoing surveillance and monitoring of provisions and services for abused and neglected children, or children at risk of abuse and neglect. The national voluntary organizations can and do through their members promote some of the monitoring required. However a very much more systematic approach is required to be really effective at the local level, where the problem of child abuse occurs.

As part of those discussions I have made the following proposals - they do not at this time represent the official position either of the Canadian Council on Social Development, or of other organizations participating in the discussions but may suggest one direction in which national voluntary organizations could approach the problem of child abuse.

It is proposed that a permanent task force consisting of representatives of the national voluntary organizations should be created as a vehicle for the more systematic monitoring of services to abused and neglected children and children at risk of abuse and neglect.

The task force would seek to reach agreement on promotional activities which member organizations might wish to endorse as their own formal policies, but which would not automatically require such endorsement before they are undertaken.

The task force might seek to act as an umbrella group with which local inter- and multi-disciplinary groups concerned with child abuse and neglect, both in an active service and a promotional context, might be allied, or maintain contact.

The task force might have as one of its objectives the formation of further local inter- and multi-disciplinary groups concerned with child abuse and neglect where these do not at present exist.

At the national level the task force could act as a watchdog in relation to social policies which have relevance to the welfare or broad well-being of children and families. The task force could have regard to social policies and programs in the areas of income security, housing, health and the personal social services at the national and provincial levels. The task force could comment from time to time on such policies and programs, and suggest changes or improvements as appropriate. The task force as a somewhat unstructured vehicle may be in a better position to make representations to governments and agencies at all levels, than would some of the separate national voluntary organizations.

The task force should be an ongoing vehicle for the expression of concerns of every kind about child abuse and neglect and the welfare of children in general.

The task force should not necessarily be formally structured. The task force should be a flexible vehicle which is not bound by the terms of reference of the interested national voluntary organizations. Funding for specific activities, projects, meetings could be sought either in the name of the task force or in the name of the various organizations. The task force should

have an action orientation in which practical short-term goals take preference over long-rerm goals which belong more properly to the concerns of some of the national voluntary organizations.

The term "task force" may not be satisfactory; however the implications of other terms such as "coalition" or "alliance" may require careful consideration before being adopted.

The creation and existence of the task force should be a demonstration and a symbol of ongoing concerns about child abuse and neglect.

The activities of the task force may need to be specified in greater detail, but the ability to respond in a flexible way to new developments should be maintained in any terms of reference that may be arrived at.

Conclusion

I have attempted to give an accurate picture of some of the arrangements and developments at the provincial and national levels relating to the problem of child abuse. I have set these comments primarily within the context of the child welfare services, but fully recognize the importance of other major social services and social institutions in any attempt to deal with and to prevent child abuse.

Child abuse is a very personal challenge to all of us. It is a challenge to ordinary members of the public as much as it is a challenge to professionals, administrators and politicians. It is a challenge that at any time each one of us might have to face. Each one of us might be an abuser; each one of us might be the witness of abuse. Each one of us might have to ensure that regardless of the embarrassment or social consequences for ourselves, we ensure that an abused child or a child at risk is adequately protected. In the matter of child abuse each one of us is our neighbour's keeper.

APPENDIX A

Memorandum of Law

To: Philip Hepworth May 27, 1977

From: Philip Rosen

Re: Report of the House of Commons Standing Committee on Health, Welfare and Social Affairs on "Child Abuse and Neglect"

There appear to be at least two provisions in the Criminal Code which deal with, respectively, child neglect and child abuse, although they are not explicitly so labelled. The section dealing with child neglect is Section 197 of the Criminal Code which reads as follows:

> "Section 197(1) - Everyone is under a legal duty; (a) as a parent, foster parent, guardian or head of a family to provide necessaries of life for a child under the age of 16 years.
>
> "(2) - Everyone commits an offence who, being under a legal duty within the meaning of sub-section (1), fails without lawful excuse, the proof of which lies upon him, to perform that duty if (a) with respect to a duty imposed by paragraph (1)(a), (i) the person to whom the duty is owed is in destitute or necessitous circumstances, or (ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently.
>
> "(3) - Everyone who commits an offence under sub-section (2) is guilty of - (a) an indictable offence and is liable to imprisonment for two years, or (b) an offence punishable on summary conviction."

The section of the Criminal Code dealing with child abuse is section 200 which reads as follows:

> "Everyone who unlawfully abandons or exposes a child who is under the age of 10 years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for two years."

You have asked me to comment on recommendation 11 of the Report of the House of Commons Standing Committee on Health, Welfare, and Social Affairs on "Child Abuse and Neglect", which reads as follows:

> "11(1) - That it would be desirable to amend the Canada Evidence Act to permit a spouse to give evidence in criminal cases in accordance with the recent recommendations of the Law Reform Commission. Such an amendment would affect criminal cases involving child abuse.

...2

"(2) - That mandatory reporting requirements exist in provincial and territorial legislation and that the inclusion of such a provision in the Criminal Code is not therefore recommended."

The section of the Canada Evidence Act to which the report refers is Section 4 which reads as follows:

"4(1) - Every person charged with an offence, and, except as otherwise provided in this section, the wife or husband, as the case may be, of the person so charged, is a competent witness for the defence, whether the person so charged is charged solely or jointly with any other person.

"(2) - The wife or husband of a person charged with an offence against section 33 or 34 of the Juvenile Delinquents' Act or with an offence against any of the section 143 to 146, 148, 150 to 155, 157, 166 to 169, 175, 195, 197, 200, 248 to 250, 255 to 258, 289, paragraph 423(1)(c) or an attempt to commit an offence under section 146 or 149 of the Criminal Code, is a competent and compellable witness for the prosecution without the consent of the person charged.

"(3) - No husband is compellable to disclose any communication made to him by his wife during their marriage, and no wife is compellable to disclose any communication made to her by her husband during their marriage."

The general rule, then, as developed in the common law jurisprudence both in Britain and in Canada, and as reflected in the Canadian Criminal Code is that one spouse can not be compelled by the court to testify against the other spouse in a criminal matter in which the second spouse has been charged with an offence. The distinction is made both in common law and in the criminal code between a witness being competent and compellable to testify. In the case of inter-spousal communications, both spouses are competent to testify either for the Crown or the Defence, that is, they can do so if they so wish, but are not compellable, that is, they cannot be ordered by the court to so do. There is an interesting exception to this general rule in sub-section 2 of section 4 of the Canada Evidence Act where the spouse of a person charged with a number of offences is declared to be both a competent and a compellable witness for the prosecution without the consent of the person charged. Among the offences included in this exception are those of contributing to delinquency, sexual offences, indecent acts, corruption of children, child exposure and abandonment, and certain types of child abduction.

The Law Reform Commission of Canada in its Report on Evidence makes the following recommendation for a provision in a new Evidence Code at section 40 of the suggested draft legislation which reads as follows:

...3

"A person has a privilege against disclosure of any confidential communication between himself and a person who is related to him by family or similar ties if, having regard to the nature of the relationship, the probable probative value of the evidence and the importance of the question in issue, the need for the person's testimony is outweighed by the public interest in privacy, the possible disruption of the relationship or the harshness of compelling disclosure of the communication." (my underlining)

The Law Reform Commission of Canada provides the following justification for this measure at page 78 of its Report:

"Under existing law, confidential communications between spouses are privileged. The major purpose of the rule is to foster frankness and candour between spouses, and thereby support the conjugal union. But the privilege applied no matter what the state of the marital union and, oddly enough, the privilege was that of the person receiving the communication, not of the one making it. This section attempts to achieve a better balance between the desirability for confidentiality and the need for obtaining evidence by giving the judge a discretion to allow or disallow the privilege in the light of the circumstances. It rationalizes the law by making the privilege that of the person making the communication. And it extends the privilege to other family and similar relationships."

This justification for the suggested change is not shared by all members of the Law Reform Commission of Canada. Commissioner Gerald V. LaForest dissents in the following terms at pages 79-80 of the Report:

"I would restrict this privilege to husbands and wives. I have a general disinclination to extend privileges because of their tendency to conceal the truth. Only in the case of the marital union do I see any compelling reason for this privilege, namely, that marriage is the cornerstone of society as we know it. I would add that I do not agree with the possible implication in the comments that the state of the marriage at the time of the proceedings should be the prime consideration in allowing the privilege. That may be a relevant consideration, but if it is sought to promote candour between spouses it must be by supporting a policy that encourages marital communications when they are made. One cannot make this policy totally dependent on the state of the marriage at the time of the proceeding.

"There is also an administrative problem. The more people the privilege applies to, the more often it will be invoked and consequently, in a discretionary privilege of this kind, the more time will be taken by the court in determining whether it applies. A

> further dimension to this difficulty is that those to whom the privilege applies are not fully defined, and all sorts of nice questions can be raised on this issue. The determination of this issue is not a mere discretionary matter but one going to the meaning of the section and consequently one from which courts of appeal would not discourage appeals. Precedents would then be required in interpreting the rule, and this is the sort of thing the Code generally tries to avoid.

The effect of the Law Reform Commission recommendation would be to make a member of a family both a competent and a compellable witness in criminal matters when the trial judge, in the exercise of his discretion, should decide that a question of morals and public order requires the violation of the fundamental principle of privacy of family relationships. Under the present law in the Canada Evidence Act, a spouse is a competent but not a compellable witness in reference to charges arising from incidents of child neglect and abuse under provincial legislation. On the other hand, it appears that the spouse is both a competent and a compellable witness for the prosecution only when there are charges under the Criminal Code involving child abuse or neglect. The recommendation of the Law Reform Commission contained in its Report on Evidence is, unfortunately, unnecessarily vague and difficult of application. I agree with LaForest's observation that the latitude left for the exercise of discretion is far too wide and that the criteria provided to a judge are not sufficiently specific. I also agree with LaForest that this exception to the general principle of a witness' competence and compellability should be limited to husband and wife. I would go further than LaForest and suggest that an exception to inter-spousal privileged communications be provided in the Canada Evidence Act for cases of child abuse, neglect and protection taken either under the Criminal Code or provincial child welfare or protection legislation - such a spouse would thus be both competent and compellable as a witness.

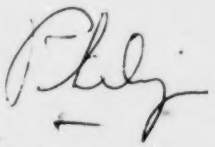
To sum up my comments on 11(1), I agree with it concerning the amendment of the Canada Evidence Act recommendation suggested by the Law Reform Commission of Canada. I feel, however, that the Law Reform Commission's recommendation is far too vague and requires some degree of precision - an exception to the inter-spousal communication privilege rule should be clearly set out for cases of child abuse and neglect where the state has intervened either via the federal Criminal Code or the provincial Child Abuse or Child Protection legislation.

I just have a few comments to make on recommendation 11(2) of the House of Commons Committee Report on Child Abuse. The committee recommends that mandatory reporting requirements are not necessary in the Criminal Code since they exist in provincial and territorial legislation. I agree with this comment in principle but feel the committee should have gone somewhat further. Centralized and effective reporting should be made mandatory under the provincial legislation, and should be accompanied by a sanction which can be applied to those who do not comply with the legislated requirements. The provinces should also be encouraged to have the most effective reporting mechanism possible so that they might obtain an accurate picture of and respond appropriately to child abuse and neglect in their particular juris-

....5

diction. I would go further than this, however, and suggest that the federal government should also collect and collate child abuse and neglect statistics from the provinces and the territories so that some semblance of a national picture might be discernible. I do not feel, however, that such a requirement should be included in the Criminal Code which is a penal statute and whose approach would be inappropriate to this type of information gathering and reporting.

These are just a few hasty comments on an important topic which I would be interested in pursuing with you in the future.



APPENDIX B

Documentation on Child Abuse Registers

TABLE 1. Persons or Agencies Reporting Child Abuse(a)

		Alberta		Ontario							N.S.
		1975	1976	1970	1971	1972	1973	1974	1975	1976*	1976
1	School	28	42	78	96	83	90	84	111	78	5
2	Other Agency/Another CAS	40	38	-	2	1	3	-	5	-	-
3	Community/Neighbour	42	30	32	48	49	60	45	49	17	9
4	Hospital/Medical Clinics	39	28	33	45	42	49	63	82	33	14
5	Relative (other than parent)	29	17	25	26	41	31	32	45	16	
6	Mother	28	15								
7	Doctor	40	15	19	28	38	48	40	63	40	
8	Health Unit Nurse/PHN	24	13	17	17	39	45	37	63	29	4
9	Police	24	12	25	22	34	53	42	68	21	12
10	Babysitter	13	6								
11	Friend	23	6								
12	Father	6	5								
13	Social Worker	8	5								
14	Anonymous	11	4	10	3	8	9	7	16	6	
15	Parent			59	66	75	103	95	121	62	
16	Staff of C.A.S.			14	5	3	8	9	20	6	
17	Coroner			-	-	1	2	1	-	-	
18	Crown Attorney			-	1	-	1	-	-	-	
19	Court			-	2	-	1	2	1	-	1
20	Child/Self	8		15	17	22	30	26	47	31	1
21	Other(s)			27	18	44	63	79	77	60	14
22	Not given			53	26	11	3	-	1	-	
23	Social agencies										7
24	Family										6
25	Minister	2									
26	Foster parent	2									
27	Stepmother	1									
28	Common-law father	1									
Total		369	237	407	422	491	598	562	769	400	76

* Six months only.

(a) Manitoba indicates that "Source" means both the reporting child caring agency and the area where the abuse occurred.

TABLE 2a Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1971 Reports Ontario	1971* Reports Manitoba	1971 Alberta	1971 Reports Only B.C.
0-6 mos.		13		49
7-12 mos.				
1 year		17		
2 years				
3				24
4		15		
5				
6				
7				
8				
9				
10				
11		2		17
12				
13				
14				
15				
16		2		
17				
Unknown				
Total	422	49		90
Sex				
M		29		41
F		20		49
Unknown				
Other				
Total		49		90

* Last six months only.

TABLE 2b (Continued) Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1972	1972	1972	1972 Probable	
	Ontario	Manitoba	Alberta	B.C.	
0-6 mos.		12		39	
7-12 mos.					
1 year					
2 years		29			
3				46	
4					
5					
6		26			
7					
8					
9					
10					
11				20	
12					
13		11			
14					
15					
16		3			
17					
Unknown					
Total	491	81		105	Reports 136
Sex					
M		44		57	
F		37		48	
Unknown					
Other					
Total		81		105	

TABLE 2c (Continued) Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1973 Cases Reported Ontario	1973 Manitoba	1973 Alberta	1973 Probable B.C.
0-6 mos.		20		45
7-12 mos.				
1 year		23		
2 years				
3		19		48
4				
5				
6				
7				
8				
9				
10				
11		6		29
12				
13				
14				
15				
16		2		
17				
Unknown				
Total	598	70	295	122 171
Sex				
M		36		76
F		34		46
Unknown				
Other				
Total		70		122

TABLE 2d (Continued) Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1974 Ontario	1974 Manitoba	1974 Alberta	1974 Probable B.C.
0-6 mos.		7		55
7-12 mos.				
1 year				
2 years		33		
3				60
4				
5				
6				
7		30		
8				
9				
10				
11				28
12		5		
13				
14				
15				
16		7		
17				
Unknown				2
Total	562	82	400?	145* Reports 171
Sex				
M		54		78
F		28		67
Unknown				
Other				
Total		82		145

* But see Annual Report 1975, p.30

TABLE 2e (Continued) Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1975 Cases Reported	1975 No. of Reported Children	1975 No. of Battered Children Reported	1975 No. of Children Probably Abused
	Ontario	Manitoba	Alberta	B.C.
0-6 mos.		15	37	81
7-12 mos.			21	
1 year		27	42	
2 years			46	
3			37	112
4			33	
5		38	38	
6			20	
7			15	
8			17	
9			13	
10			15	
11		22	12	69
12			6	
13			24	
14			14	
15			11	
16		1	10	
17			2	
Unknown			1	
Total	769	103	421 Reports 369	262 Reports 43
Sex				
M		53	221	141
F		50	196	121
Unknown			1	
Other			3	
Total		103	421	262
Neglect Reports				
No. of Reports			4,812	
No. of Cases			4,077	
Number of children admitted to care				
Temporary wards coming into care			2,069	

TABLE 2f (Continued) Age of Children Reported as being Abused in Provinces with Child Abuse Registers

	1976 First Six Months	1976 Reports Received	1976 Reports No. of Children	1976 Identified and Reported to Child Abuse Register	1975/76
	Ontario	Manitoba	Alberta	Nova Scotia	Quebec
0-6 mos.		21	20		
7-12 mos.			10	-	
1 year			31		
2 years		39	36	45	42%
3			23		
4			17		
5			25		
6		43	22		16%
7			15	8	
8			12		
9			10		
10			15		
11			9	-	
12		30	6		42%
13			7	16	
14			6		
15			13		
16		2 (over 16)	6		
17			1		
Unknown			1	7	
Total	400 741(est.whole yr.)	135	285	76	
Sex					
M		60	144	24	
F		75	141	52	
Total		135	285	76	

TABLE 3. Nature of Abuse Reported

	Manitoba						Alberta		Ontario							Nova Scotia
	71*	73	73	74	75	76	75	76	70	71	72	73	74	75	76	76
Death	2	1	-	4	2	2	(5)		3	1	2	5	3	9		
Fractures	11	14	16	11	16	19	36**	23								
Burns	1	5	5	7	5	6	22	8								
Bruises and welts, cuts or burns	26	37	41	56	60	78	29	15								
Rape	-	1	-	-	-	-										
Sexual assault	-	1	-	-	6	15										28.8% of females
Other	9	22	8	4	14	15										
Bruises							172	103								
Cuts							5	2								
Welts							10	1								
Failure to thrive							6	1								
Malnutrition								1								
Physical abuse							78	83								65.8%
Maternal deprivation																9.2%
High risk							5									
Internal injuries							3									
Bites							3									
Total	49	81	70	82	103	135	369	237								

* Six months only.

** Includes eight "bruises and fractures."

TABLE 4. Perpetrators or Alleged Abusers

	Nova Scotia	Ontario	Alberta		Manitoba						Ontario					
	76	73/74	75	76	71*	72	73	74	75	76	70	71	72	73	74	75
Father	40.7%	621	87	66	12	26	11	18	21	46						
Mother	44.7%	665	143	63	15	26	22	20	22	33						
Unmarried	6															
Both Parents		185	40	9	13	15	9	8	10	6						
Substitute Mother/ stepmother		43	6	3												
Substitute Father/ stepfather		266	31	22												
Siblings		16	1													
Other Relatives		31	6	2												
Outsider/other persons		170		3	2	9	13	9	18	17						
Unknown			22	55	6	5	9	23	16	16						
Babysitter			19	9												
Foster parents			9	3							1	4	8	5	5	6
Teacher			1	2												
Common-law spouse					1	-	6	4	16	17						
Adoption cases											7	8	17	17	16	15
Boyfriend			3													
Total No. of Cases	76	1,997**	369	237	49	81	70	82	103	135						

* Six months only.

** Children involved 1,089.

TABLE 5. Action Taken After Child Reported to be Abused

	Nova Scotia	Ontario							Alberta		Manitoba: Disposition of Children						Manitoba: Action Against Alleged Abuser					
	76	73	71	72	73	74	75	76	75	76	71*	72	73	74	75	76	71*	72	73	74	75	76
Made wards	30.3%																					
Supervision & support services in home	51.3%										18	46	41	32	51	57	18	43	41	35	51	46
Family counselling	17.1%																					
Charges laid/criminal court proceedings		39	51	60	63	50	85										2	4	2	1	2	10
Convictions registered		14	15	23	12	1	13															
Protection file									130	85												
Apprehended									90	62												
Intervention not indicated									10	47												
Other agency involved									50	27												
Parents separated									15	8												
Babysitter referred									3	5												
Private placement									9	3												
Non ward care											5	3	4	4	4	16	5	3	4	4	4	16
Temporary guardianship/ loss of parental rights											12	15	10	14	32	20	12	15	10	12	29	20
Permanent guardianship/ loss of parental rights											11	16	5	1	1	5	11	16	5	1	1	5
Child deceased									(5)		2	1	-	4	2	2	-	-	-	-	-	-
Investigation only											1	-	2	20	12	30	1	-	2	23	12	30
Pending (Family court and criminal court)											-	-	8	7	1	5	-	-	9	6	4	8
Accidental									16													
Not using sitter									10													
Excess discipline at time									9													
Whereabouts unknown									6													
Medical condition									6													
Custody dispute									6													
Foster home closed									5													
Malicious									4													
Total	76	407	422	491	598	562	769		369	237	49	81	70	82	103	135						

SOURCE: Provincial Annual Reports and information supplied to author by Provincial Welfare Officials.

APPENDIX C

Legislative Provisions and Documentation Relating to Child Abuse in the Provinces

Newfoundland

Legislation

The Child Welfare Act 1972 (consolidation of 1964 Act and amendments in 1965, 1966, 1968, 1969, 1970, and 1971) makes parents or guardians responsible to pay maintenance for child in care.

> In extreme cases of emotional and physical mistreatment of children all attempts to guide, support and counsel the family may fail and it may be necessary for children to be removed from their home.[1]
>
> Children are sometimes admitted to care on a voluntary basis for short periods or they may be relinquished for adoption at birth. However, many come into care on the basis of child abuse either physical, nutritional, sexual or emotional. During the past year, there has been a significant increase in the number of cases of alleged child battering referred to the Child Welfare Division and as a result there has been an even closer liaison between the Child Welfare Division and the officials of the different hospitals across the Province as well as other resource people in the community.[2]

TABLE 1. Reasons for Children Coming Into and Leaving Care

	1970/71	1971/72	1972/73	1973/74	1974/75
Coming into care					
Relinquished for adoption	265	271	263	281	274
Illness, separation or neglect of parents	509	442	590	403	440
Severely handicapped	4	87	41	31	21
Total	778	800	894	715	735
Leaving home care					
Placed for adoption	331	339	336	448	310
Returned to parents	392	361	471	388	331
Discharged to relatives	42	33	39	40	39
Employment	66	46	45	52	54
Transferred	59	24	22	33	29
Decreased	14	8	14	10	14
Total	904	871	927	971	804

1 Newfoundland, Department of Social Services and Rehabilitation, Annual Report 1971/72, p.100.

2 Department of Social Services and Rehabilitation, Annual Report 1972/73, p.102.

The number of child abuse cases reported to the Director of Child Welfare during the past year has greatly increased. Many more Doctors, Hospitals, Social Workers, schools and other community resources are becoming aware of this problem and are reporting these incidents to the Director of Child Welfare in accordance with the Child Welfare Act. A central registry has been maintained at Headquarters where all reported cases of physical, nutritional, sexual or emotional abuse are recorded. Welfare officers in the Field are becoming increasingly involved in indepth evaluation of these cases and are applying social work principles in working with the parents and children wherever necessary. Cases are being discussed between Welfare Officers and District Supervisors and interested and appropriate persons in the community in an effort to help parents to deal with this problem with the objective of -

(1) preventing children from coming into care wherever possible,
(2) where placement is essential for the well-being of the child to ensure that children are returned to their parents as soon as circumstances have improved.

A conference held in Gander during the week of March 18, 1974 pertaining to child abuse involved not only Welfare Officers, but doctors, nurses, medical social workers and magistrates. This continued emphasis on a community approach will hopefully result in these cases being detected early and treated effectively.[3]

When problems occur in families which require the intervention of the Division of Child Welfare, every possible effort is made to keep the family together and to provide help and encouragement to the total family unit. Only as a last resort are children removed from their parents.

In extreme cases of emotional and physical mistreatment of children where all attempts to guide, support and counsel the family have failed, it then becomes necessary to arrange a Hearing in Family Court for the purpose of obtaining wardship which will result in the Director of Child Welfare becoming the legal guardian of the child. It is at this point that children are removed from their homes and parents and placed into facilities specially licensed to meet their needs, i.e. group homes, foster homes, etc.[4]

A mandatory reporting requirement has been in operation since 1969.

The Child Welfare (Amendment) Act 1969

A provision has been inserted in the principal act requiring persons having information of the abandonment, desertion, physical illtreatment or need for protection of a child to report the information to the Director or to a Welfare Officer.[5]

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3 Department of Social Services, Annual Report 1973/74, p.39

4 Department of Social Services, Annual Report 1974/75, p.33.

5 Department of Public Welfare, Annual Report 1968/69, p.26.

Prince Edward Island

Legislation

Children's Protection Act, 1961 (as amended).

The figures for child abuse for 1976 are broken down as follows: 5 cases with hard evidence; 13 cases with soft or inferential battering; and 140 cases with emotional or physical neglect. These figures show an increase of five to eight per cent over the previous year. This rate of increase has held comparatively steady for the past three years.[6]

TABLE 2.

	1970/71	1971/72	1972/73	1973/74	1974/75
Number of children in care April 1	420	425	416	343	333
Number admitted to care during year	107	87	91	110	139
Total number in care during year	522	512	507	453	472
Number discharged	96	96	187	120	165
Number in care March 31	428*	416	342	333	307

* Should be 425

... we have made significant beginnings in our efforts to up-date our child welfare services.[7]

We are pleased to report on the success realized to date in establishing the province-wide home strengthening program. This program is being co-ordinated at the field level by the district home economists of the Department of Agriculture field offices under their Provincial Co-ordinator, and involves a partnership of staff members from the Departments of Health, Welfare, Education, Agriculture, and the Rural Development Council, as well as other agencies in both the private and public sector.[8]

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6 Information supplied to the author from Eugene A. MacDonald, Director, Program Support and Development, February 28, 1977.

7 Prince Edward Island, Department of Welfare, Annual Report 1971/72, p.20.

8 Ibid., p.21.

During the year under review, the Division of Child and Family Services provided counselling services to families experiencing marital problems, child/parent conflicts and services to families where child neglect and abuse were present ... over the past year there has been a substantial increase in the demand for counselling and child discipline, and behavioural problems have increased. Referrals are coming from all segments of society, and the Division is making every effort to meet the demand.[9]

During the year under review, the Division of Child and Family Services provided counselling services to families experiencing marital problems, child/parent conflicts and services to families where child neglect and abuse were present.[10]

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9 Department of Social Services, Annual Report 1973/74, p.17.

10 Ibid., p.18.

Nova Scotia

Legislation

Children's Services Act 1976
Children's Services Act Regulations 1976

TABLE 3.

	1970/71	1971/72	1972/73	1973/74	1974/75	1975/76
Children in Care April 1	3,367	3,338	3,144	2,928	2,739	2,511
Children made wards						
Children of unmarried mothers	342	275	208	148	113	
Others in need of protection	271	250	287	207	233	
Transfer of guardianship	13	7	8	7	5	
Wards transferred into province		3	2	-	2	
Total	626	535	505	362	353	
Children whose wardship ended						
Transfer of legal guardianship	13	7	9	7	7	
Coming of age	118	286	142	126	154	
Adoption	361	311	437	312	307	
Marriage	37	27	29	27	15	
Court order	117	88	97	77	96	
Death	8	7	6	2	2	
Transferred out of province	1	3	1	-	-	
Total	655	729	721	551	581	
Children in care March 31	3,338	3,144	2,928	2,739	2,511	

A mandatory reporting requirement has been in operation since the Child Welfare Act of 1967 (as amended in 1968) was passed.

Children's Services Act 1976 Section 42 "The Minister shall establish a child abuse register

43 (1) Where (a) a child is in need of protection within the meaning of subclause (iv) or (vii) of clause (m) of Section 2; or (b) a qualified medical practitioner, registered nurse, or administrator of a hospital or institution reports that he has reasonable and probable grounds to believe a child is subject to child abuse,

it shall be recorded in the child abuse register and the person purported to have abused the child shall be informed of such reporting as soon as practicable.

(2) The child abuse register shall be treated as confidential and shall be available only upon the approval of the administrator for the purposes of
(a) research as defined by regulations; or
(b) assisting in the study of the circumstances where a child is suspected to be in need of protection.

44 (2) Where an agent has reasonable and probable grounds to believe that a child named in the notice serviced pursuant to subsection (1) is being subjected to physical abuse or is in danger of life and limb, the notice may be served at any time before the hearing."

2(m) "child in need of protection" means (iv) a child whose life, health or emotional welfare is endangered.

(vii) a child who is in the care or custody of a person who refuses or fails
(A) to provide or obtain proper medical or other recognized remedial care or treatment necessary for the health or well-being of the child, or
(B) to permit such care and treatment to be supplied to the child when it is considered essential by a duly qualified medical practitioner.

Children's Services Act Regulations.

Section 3(a) "abuse" means acts of commission or omission on the part of the parent or custodian of a child which results in injury to a child. This includes, but is not necessarily restricted to physical beating, parental deprivation, cutting, burning, physical assault, sexual abuse, and failure to provide reasonable protection for the child from physical harm.

On April 19, 1971 the age of majority was reduced to 19 years. This was a major factor in the reduction of the number of children in care.[11]

In July 1972, a Minister's Advisory Committee on Day Care was appointed. This committee is comprised of 12 members of various disciplines who come from all areas of Nova Scotia. Its purpose is to review and research every aspect of Day Care Services and accordingly make recommendations to the Minister.[12]

The increasing interest and awareness of communities in the value of sound developmental day care facilities for their children has significant meaning for the Department in that development of standards will necessarily have to increase.[13]

During the ... period all agencies experienced heavier demands on their personnel with participation in court hearings under Part III of the Child Welfare Act even though fewer children came into care. This is attributed to the increasing involvement of lawyers representing parents and agencies in the Family Court.[14]

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11 Nova Scotia, Department of Public Welfare, Annual Report 1971/72, p.6.

12 Department of Public Welfare, Annual Report 1972/73, p.4.

13 Department of Social Services, Annual Report 1973/74, p.12.

14 Department of Social Services, Annual Report 1974/75, p.11.

New Brunswick

Legislation

Child Welfare Act (Consolidated to 1973)
Children of Unmarried Parents Act 1967

TABLE 4.

	1970/71	1971/72	1972/73	1973/74	1974/75	1975/76
Children in care April 1	3,470	3,310	3,004	2,824	2,798	2,855
Children admitted to care	1,966	1,097	1,194	1,024	1,077	981
Sub-total	5,436	4,407	4,198	3,848	3,875	3,836
Children discharged from care	2,126	1,403	1,374	1,050	1,020	832
Children in care on March 31	3,310	3,004	2,824	2,798	2,855	3,004

The Child Welfare Act considers as in need of protection, a child

(c) who has been assaulted or ill-used by his parent

(g) who is emotionally rejected or deprived of affection by his parent sufficient to endanger his emotional and mental development ...[15]

Within Child Welfare, the Protection Service has undergone the most-significant change in scope of delivery. The apprehension of children has decreased as increasing efforts are concentrated on rehabilitation of the entire family unit ... when a family unit is disrupted beyond immediate repair, children are taken into wardship on a temporary basis. This is considered a last resort. Permanent wardship is only obtained when there is no indication that the children will ever be able to return to their natural family.[16]

In June 1972 the Research Section completed its evaluative study of the Child Welfare Statistical Model. The concluding report indicated the need for an alternative model.[17]

15 New Brunswick, Department of Welfare, Annual Report 1970/71, p.17.

16 Department of Social Services, Annual Report 1971/72, p.34. (Virtually same paragraph in 1972/73 Annual Report, p.26.

17 Department of Social Services, Annual Report 1972/73, p.27.

In late March 1973 an Advisory Committee on Child and Family Services was established by an Order in Council.[18]

> An interdepartmental committee on child abuse was established involving representatives from the Departments of Health, Justice, and Social Services. Because there was no immediate need for changes in legislation to handle the concerns of child abuse, the committee became involved in public information forums. A series of information sessions was held in various communities in the province with particular emphasis on reaching the other professions involved in public services. As a result of these sessions some communities have organized committees or associations on child abuse to study the matter further ...[19]
>
> ... increased use of homemaker services ...[20]
>
> The legislative amendments provided the department with further encouragement to develop the unmarried parent service. The new section gives full recognition to the rights of the single parent and insures her and the child of the opportunity to benefit fully from the services available.
>
> The department has increased its efforts to disseminate information on single parents' services to the public and in particular to hospitals, schools, and various local organizations.[21]

TABLE 5. Legal Status of Children in Care March 31st Each Year

	1970/71	1971/72	1972/73	1973/74	1974/75	1975/76
Apprehension	106	64	80	93	113	124
Protective custody	-	-	-	38	28	38
Temporary wardship	411	334	357	338	331	359
Permanent wardship	2,496	2,41-	2,272	2,179	2,200	2,269
Non-ward care	297	193	115	142	174	204
Juvenile Delinquent Act	-	-		8	9	10
Total	3,310	3,004	2,824	2,798	2,855	3,004

> Several regions were in the process or had initiated the development of special units by their larger urban areas to provide protection services to the community. This has resulted in a general improvement in the effectiveness of the protection services.[22]

18 Department of Social Services, Annual Report 1973/74, p.20.

19 Ibid., p.21, 22

20 Ibid., p.22

21 Ibid.

22 Department of Social Services, Annual Report 1974/75, pp.34,35.

Child Welfare Act (Consolidated to 1973)

The Child Welfare Act considers as in need of protection, a child who has been assaulted or ill-used by his parent, or who is emotionally rejected or deprived of affection by his parent sufficient to endanger his emotional and mental development.[29]

Section 24A of the Child Welfare Act states

"No action lies against any person who informs the Director of the abandonment, desertion, physical ill-treatment or need of protection of a child unless the giving of the information was done maliciously or without reasonable or probable cause."

The "Teed" Report of the Advisory Committee on Family and Child Services recommended in 1973,

26 "That legislation making mandatory the reporting of instances of suspected child abuse be enacted."

27 "That an interdepartmental committee of the provincial government comprised of representatives of the Departments of Health, Social Services, and Justice be established with a view to developing a multi-discipline approach to the many aspects of the child-abuse problem."[30]

In respect to recommendation 26, in April 1976 background work was being done toward the development of legislative proposals in 1976 with the possibility of their introduction in early 1977; this was part of the work of creating new legislation. Recommendation 27 was under review by an interdepartmental committee.

The "McGuigan" Report on A Study of Social Services to Children stated:

"Legislation to cover child abuse is required immediately."[31]

In April 1976 a child abuse registry was being proposed as part of a comprehensive legislative package on child abuse. In addition a Provincial Co-ordinator of Child Protection Services was appointed in January 1976, and part of the early work of this person was a child abuse survey to determine the extent of the Department's involvement in situations of child abuse.

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29 Department of Welfare, Annual Report 1970/71, p.17.

30 New Brunswick, Report of the Advisory Committee on Family and Child Services, (Fredericton, December, 1973), p.17.

31 Lorne McGuigan, Report on A Study of Social Services to Children (Fredericton, December, 1975), p.117.

The use of homemaker services by the Protection Service to support family units and to help prevent the breakdown of other families has continued to increase. This utilization of the homemaker has contributed to the number of children who have been able to remain in their homes.[23]

This year saw the development of a new and closer level of co-operation between the Family and Child Service representatives of the Departments of Social Services in the four Atlantic Provinces.[24]

... development of an Atlantic Child Protection Workshop.[25]

Program Development Division

The Section ... provided some support services to Mr. Lorne McGuigan in his study on children's services.[26]

This past year saw a continuation of the Department's emphasis on the utilization of community resources to prevent unnecessary family breakdown. A conscious effort was made to prevent the unnecessary separation of children from their families in situations of abuse or neglect.[27]

In January a Provincial Co-ordinator of Child Protection Services was appointed. This is a support position to the delivery of child protection and unmarried parents programs through such activities as supporting field operations, developing service standards and assisting in the development of policies and legislation.
Two early activities of the Co-ordinator were the development of a Child Abuse Survey to determine the extent of the Department's involvement in situations of child abuse and preliminary work on the development of Provincial Services Standards for Child Protection Services.

Legislation to cover child abuse is required immediately.[28]

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23 Ibid.

24 Ibid., p.35

25 Ibid.

26 Department of Social Services, Annual Report 1975/76, p.22.

27 Ibid., p.42

28 (McGuigan) Report on a Study of Social Services to Children, p.117.

Quebec

TABLE 6. Deaths in Quebec According to the Three Principal Causes in Each Age Group

	1971	1972	1973	1974	1975	1976
Under 1 year						
Perinatal illness			700	633		
Congenital anomalies			373	390		
Respiratory illness			120	96		
1 to 3 years						
Accidents, poisoning, shocks			154	110		
Congenital anomalies			45	37		
Tumours			28	24		
5 to 9 years						
Accidents, poisoning, shocks			170	168		
Tumours			34	41		
Illnesses of the organic nervous system			19	13		
10 to 11 years						
Accidents, poisoning			48	57		
Congenital anomalies			8	7		
Illnesses of the organic nervous system			6	5		
12 to 19 years						
Accidents			720	743		
Tumours			65	79		
Illnesses of the organic nervous system			34	27		

SOURCE: Ministère des Affaires Sociales, Statistiques des affaires sociales Québec decembre 1975 Tableau 1-25, Ministère des Affaires Sociales Statistiques régionales des affaires sociales edition 1975/76 Tableau 1-26.

TABLE 7. Children in Care

Year	No. of Children
March 31, 1971	40,180
1972	40,354
1973	36,392
1974	33,911
1975	32,343
1976	32,267

SOURCE: Annual Reports of Ministère des Affaires Sociales; Statistiques des Affaires Sociales, Vol.2,No.7, Juillet 1975; Document de travail Les Services à l'enfance inadaptée Annexe Technique Aux Volumes 1 et 2, août'72; Association des centres de services sociaux "Les enfants en situation d'abandon," mars 1977.

Protection and residential care of children.

This program provides for children who are separated on a temporary or permanent basis from their families. Some of these children only need to be looked after in "centres de transition" for a limited period of time; some of the children born outside marriage are taken into nurseries, whilst some children in urgent need of care because of a crisis in their family or at school are looked after in "centres de dépannage"[29]

The large majority of children cared for under this program, however, come from broken or disturbed families, for which a new family has to be substituted, a "famille d'accueil" called a "foyer nourricier"[30]

Loi concernant la protection des enfants soumis à des mauvais traitements 1974 (entrée en vigueur 13 4 octobre 1975 - modifie la Loi de la protection de la jeunesse 1964.

An Act respecting the protection of children subject to ill-treatment 1974 (became effective October 4, 1975 - modifies the Youth Protection Act 1964).

This legislation establishes a youth protection committee for the purpose of promoting the protection of children subject to physical ill-treatment. The legislation obliges every person, even a person having privileged information by reason of his office, to inform the committee without delay when he has reasonable cause to believe that a child is subject to physical ill-treatment as the result of abuse or neglect. Every failure to observe such obligation constitutes an offence.

In its first year of operation (i.e. October 4, 1975 to October 4, 1976, 2,241 "situations" were reported to the Committee; 97 per cent of these reports were by telephone; 98 per cent of reporters agreed to be identified. Of the 2,241 "situations" reported, 1,123 were substantiated involving some 2,464 children; less than 100 of the substantiated "situations" were referred to the Social Welfare Court (la Cour de bien être social). In the 1,118 unsubstantiated cases there were 562 children who although not mistreated were in urgent need of help.

Of the 2,464 children identified as being physically abused or mistreated 589 were under 9 years old, and 42 per cent under 6 years old.

The Committee has teams of social workers on duty 24 hours a day, 7 days a week, which operate throughout the Province of Quebec.

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29 Quebec, Ministère des affaires sociales, Rapport Annuel 1974/75, p.65.

30 Ibid.,

Ontario

Legislation

Child Welfare Act 1965 (as amended)

TABLE 8. Child Abuse Cases Reported

Year	Cases Reported
1966	225
1967	380
1968	267
1969	364
1970	407
1971	422
1972	491
1973	598
1974	562
1975	769

SOURCE: Information supplied by Gordon McLellan, Executive Director, Social Services Division, Ministry of Community and Social Services in letter dated February 23, 1977.

TABLE 9. Children in Care

Year	Number of Children
Dec. 31, 1969	18,430
1970	17,807
1971	16,319
1972	15,119
1973	14,269
1974	13,718
1975	13,909
Mar.31, 1976	13,710

SOURCE: Annual Reports of Ministry of Community and Social Services.

A mandatory reporting requirement was included in the Child Welfare Act of 1965, and a central register has been in operation since 1966.

The Child Welfare Act (Revised Statutes of Ontario 1970)

Section 20(1)(b) "child in need of protection" means
(x) a child where the person in whose charge he is neglects or refuses to provide or obtain proper medical, surgical or other recognized remedial care or treatment necessary for his health or well-being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a legally qualified medical practitioner, or otherwise fails to protect the child adequately.

(xi) a child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection by the person in whole charge he is.

(xii) a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is.

Section 41(1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to a children's aid society or Crown attorney.

(2) Subsection 1 applies notwithstanding that the information is confidential or privileged, and no action shall be instituted against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

"With respect to ... statistics (i.e. on child abuse), I should emphasize that these are cases reported to the Central Provincial Registry and are not necessarily all child abuse cases coming to the attention of agencies in the province. While it is mandatory for any individual to report a case of suspected child abuse to a Children's Aid Society or a Crown Attorney, there is no legislative requirement for agencies to report cases to the Central Registry. We are currently developing a data system which should give us a full picture of all child abuse cases coming to the attention of children's aid societies in the province. Dr. Herb Sohn, the Co-ordinator of Child Abuse, is preparing additional material on the arrangements for handling these cases in Ontario..."31

Section 40(2) Any person having the care, custody, control or charge of a child under the age of ten years who leaves the child unattended for any unreasonable length of time without making reasonable provision for the supervision and safety of the child is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than $100 and, for any subsequent offence, to a fine of not more than $200 or imprisonment for a term of not more than one year.

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31 Information supplied to the author by Gordon McLellan, Executive Director, Social Services Division, Ministry of Community and Social Services, February 23, 1977.

Manitoba

Legislation

The Child Welfare Act 1974, Chapter C80.

Section 16. In this Act, a child in need of protective guardianship means
(c) a child whose life, physical or mental health, or morals may be endangered by the conduct of the person in whose charge he is.

Section 38(1) Any person having the care, custody, control or charge of a child and who inflicts cruelty or ill treatment upon the child or fails to protect the child is guilty of an offence punishable on summary conviction.

Section 38(2) Any person having the care, custody, control or charge of a child under the age of 12 years who leaves the child unattended for an unreasonable length of time without making reasonable provisions for the supervision and safety of the child is guilty of an offence punishable on summary conviction.

Section 36 (1) Any person having information of the abandonment, desertion, ill treatment or need for protection of a child shall report the information to the director or to a child caring agency.

Section 36(2) Subsection (1) applies notwithstanding that the information is confidential or privileged; and no action lies against the informant for reporting the information unless it is reported maliciously or without reasonable and probable cause.

Guidelines in Cases of Child Abuse

Press release October 1, 1976 Attorney General and Minister of Health and Social Development.

"The guidelines provide that where a report of child abuse is received by a child caring agency, the agency will immediately consult with the local police department and vice versa where the police department receives the report."

TABLE 10. Children in Care

Year	Number of Children
December 31, 1970	3,636
1971	3,549
1972	3,579
1973	3,690
1974	3,436
1975	4,282

SOURCE: Annual Reports of Department of Health and Social Development.

Saskatchewan

Legislation

Family Services Act 1973

"The Department of Social Services is currently in the process of establishing a child protection registry for the province. At this point in time we have no way of accurately gauging the extent of child abuse and neglect in our province. Specifically we have no way of determining the type of abuse/neglect and what is being offered to help the families involved. Our registry is being developed in order to do this.

While the registry will record the names of children who are abused or neglected the main focus of the program will be the institution of a professional and public education campaign. This is already underway and will precede the actual initiation of the registry. Through our public relations program we hope to help the professional people and general public recognize the problem and characteristics of child abuse/neglect and to report any situations where they feel a child may be in need of protection. We hope to have the registry in operation by June 1, 1977."[32]

TABLE 11. Children in Care

Year	Number of Children
Mar. 31, 1970	3,417
1971	3,273
1972	3,231
1973	3,117
1974	2,975
1975	2,733
1976	2,610

SOURCE: Annual Reports of Department of Social Services.

32 Information supplied to the author by Glenn Joice, Chief of Special Services to Youth and Families, Department of Social Services, Saskatchewan, March 14, 1977.

Alberta

Legislation

Child Welfare Act 1973

TABLE 12. Children in Care

Year	Number of Children
March 31, 1970	7,036
1971	8,360
1972	8,045
1973	7,054
1974	7,686
1975	10,798

SOURCE: Annual Reports of Department of Social Services and Community Health.

Section 41.(1) Any person who has reasonable and probable ground to believe that a child has been abandoned, deserted, physically ill-treated or is in need of protection shall report the ground of such belief to the Director or to any child welfare worker of the Department.

(2) Subsection (1) applies notwithstanding that the ground for belief is information that is confidential or privileged, and no action lies against the person so reporting unless the provision of the report is done maliciously or without reasonable and probable ground for belief.

(3) Any person who fails to comply with subsection (1), in addition to any civil liability, is guilty of an offence and liable upon summary conviction to a fine of not more than $500 and in default of payment to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Section 41.1 The Director shall maintain a registry for the purposes of recording all reports received under section 41.

Section 41.2 Upon a report being made pursuant to section 41, the Director shall cause the report to be examined and shall direct such further investigations of the matter reported as he considers necessary.

Section 42. A person who has the care, custody, control or charge of a child and who

(a) ill-treats, neglects, abandons or harmfully exposes the child, or
(b) causes or procures the ill-treatment, neglect, abandonment or harmful exposure of the child, is guilty of an offence and liable upon summary conviction to a fine of not more than one thousand dollars and in default of payment to imprisonment for a term not exceeding two years, or to both fine and imprisonment.

Section 43. A parent or person who is guilty of an act or omission contributing to a child being or becoming a neglected child or likely to make him a neglected child is guilty of an offence and liable upon summary conviction to a fine of not more than two hundred dollars, and in default of payment to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

British Columbia

Legislation

Protection of Children's Act (Consolidated August 1, 1975).

A reporting requirement has been in operation since the Protection of Children Act 1960 was amended in 1968.

> A central registry is maintained within the Division. Any person having information or concern about the possibility of a child having been abused is encouraged to report the circumstances to their nearest Social Welfare office or Children's Aid Society. Any person reporting such an incidence can be assured that a careful investigation will be undertaken. Since reporting of abuse is required by the Act, and since any action is initiated by the Department or Children's Aid Society, the "reporter" is fully protected from legal action against him.[33]

> Protection of Children Act (Consolidated August 1, 1975)
>
> Section 7(2) Every person who has reasonable grounds for suspecting that a child
>
> (a) has been or is being abandoned, deserted, or maltreated; or
>
> (b) is otherwise in need of protection,
>
> shall,not withstanding any claim of confidentiality or privilege that may exist or be made,
>
> (c) forthwith make a complete report of the circumstances to the Superintendent; and
>
> (d) where subpoenaed and called to give evidence in a proceeding, give such evidence of the circumstances as the court may require.
>
> Section 7(3) Where a family advocate appointed under the Unified Family Court Act suspects that a child
>
> (a) has been or is being abandoned, deserted, or maltreated; or
>
> (b) is otherwise in need of protection,
>
> he may request any person who he believes has information relevant to the matter to make a complete report of the information to him, and on th. receipt of the request of the family advocate, the person shall forthwith make the report.
>
> Section 7(4) The Superintendent and the family advocate are entitled, on request, to a copy of any report made under subsection (2) or (3).
>
> Section 7(5) No person is liable for any loss or damage suffered by any person by reason only of making or providing, in good faith, a report under subsection(2),(3),or (4).

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33 British Columbia, Department of Social Welfare, Annual Report 1967/68, p.H 19.

In June 1974 the Protection of Children Act was amended to make it mandatory that any person who has reason to believe that a child "has been or is being abandoned, deserted, or maltreated," or "is otherwise in need of protection," report the matter to the Superintendent of Child Welfare. Throughout the past year there has been evidenced a growing awareness of this problem in the community, and an increase in the number of reports received. The year 1975 was the first in which child neglect figures were intentionally included. (Department of Human Resources, Annual Report 1975.)

TABLE 13. Children in Care

Year	Number of Children
March 31, 1970	10,567
1971	9,975
1972	10,274
1973	9,913
1974	9,584
1975	9,883

SOURCE: Annual Reports of Department of Human Human Resources.

TABLE 14. Number of Reported or Probable Cases of Child Abuse in British Columbia

	1971		1972		1973		1974		1975	
	Reported	Probable	Reported	Probable	Reported	Probable	Reported	Probable	Reported	Probable
Male										
under 3 years	27		34	26	34	24	34	28		50
3-10 years	8		31	24	52	37	44	36		66
11 years and older	6		9	7	21	15	15	12		25
no age reported							2	2		
Female										
under 3 years	22		17	13	29	21	27	27		31
3-10 years	16		28	22	15	11	29	24		46
11 years and older	11		17	13	20	14	20	16		44
Totals	90		136	105	171	122	171	140	430	262

SOURCE: Annual Reports of Department of Human Resources.